# IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

**LPA No.5 of 2003**

Reserved on: **12.4.2007**

Date of decision: **20.4.2007**

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Vinod Kumar Walia Appellant-petitioner.

Versus

Himachal Gramin Bank Respondent.

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**The Hon'ble Mr. Justice V.K.Ahuja, J.**
**The Hon'ble Mr. Justice Kuldip Singh, J.**

*Whether approved for reporting*[1]*?*

**For the Appellant:** **Mr.Shrawan Dogra counsel for the Appellant.**

**For the respondent:** **Mr. Ramakant Sharma, Advocate.**

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***Per V.K.Ahuja,J***

This Letters Patent Appeal has been filed by the appellant against the Judgment of the Hon'ble Single Judge dated 25.4.2003 passed in CWP No.1359 of 1993, wherein the appellant was not allowed the benefits consequential to his reinstatement.

The brief facts of the case are that the appellant filed a Writ Petition in this Court against the respondent-Bank praying for consequential benefits on account of his

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[1] Whether the reporters of Local Papers may be allowed to see the Judgment?

reinstatement by the respondent-Bank and to fix his pay at the stage where he would have reached in case he had continued in service in the absence of the penalty imposed upon him. The Writ Petition was decided by Hon'ble Single Judge of this Court on 25.4.2003 wherein the relief relating to the quashing of the order dated 17.8.1993 was granted in favour of the appellant but the other relief as prayed for by him was not granted.

A perusal of the facts of the case show that on the conclusion of the inquiry against the appellant, vide order dated 14.8.1992, major penalty of dismissal from the Bank's Service was imposed against him. However, on an appeal to Board of Directors they passed an order dated 26.3.1993 to re-appoint the appellant in Bank's service at initial stage of OJM-I. The appellant filed a review petition before the Board and the Board vide order dated 26.3.1993 decided to re-instate the services of the appellant in the Bank instead of re-appointing him as conveyed earlier. The decision of the Board was conveyed to the appellant vide order dated

19.5.1993. The appellant made a request for release of the benefits flowing from the order of reinstatement, but no such benefits were granted to him and therefore, he filed a Writ Petition before this Court. The Hon'ble Single Judge referred to the reinstatement of the appellant in the context of the letter however, the consequential benefits as prayed for by him were not granted flowing from reinstatement order hence, the appellant has filed by the present LPA before this court.

We have heard the learned counsel for the parties and have gone through the record.

The submissions made by the learned counsel for the appellant were that when an employee is re-instated in service, he is entitled to full back wages/salary which would have been granted to him. However, the order of the Hon'ble Single Judge will result in wiping out 13 years service of the appellant and denial of consequential benefits. To substantiate his point, the learned counsel for the appellant, he relied upon the decision in ***Sudhakar Baburao Booke*** vs. ***State of Maharashtra and others*** (1994)61 Indian

Factories and Labour Reports 433. A perusal of the decision of the Hon'ble Bombay High Court shows that it was observed that the word "reinstatement" means to place him in the same position as he was and to restore his previous position, put him back in law and fact.

On the other hand, the submissions made by the learned counsel for the respondent were that the petitioner was granted the appropriate relief by Hon'ble Single Judge and the order of re-instatement was subject to the earlier order issued for re-appointment and as such the petitioner was not entitled to any other benefit than what has been allowed to him. It was also submitted that in the reply filed to the Writ Petition, it has been clarified by the respondent in para 13 that the petitioner was reinstated instead of re-appointment since at that time there was a ban on fresh appointment.

From a perusal of the record, it appears that the petitioner was re-appointed in Bank's service as per order dated 266.3.1993 conveyed to him, however, it was specifically decided that he shall not be entitled to any

emoluments during the period of dismissal to the date of his joining the Bank on reappointment. The petitioner was also made responsible for all the losses incurred by the Bank and he was to be kept in surveillance and was not to be posted as incumbent incharge of any office. However, on representation to the Board of Directors or for any other reason, an order was passed that he should be reinstated in service as conveyed to him vide letter dated 26.3.1993 meaning thereby that the word "reappointment" was substituted by the word "reinstatement" and the conditions that were imposed vide letter dated 26.3.1993 were to be operative. It was not an order reinstating him in service with all the back wages but it was an amendment made in the earlier order which specifically provided that he shall not be entitled to any emoluments during the period of dismissal from service, therefore, it was a conditional order and the decision referred to above does not apply to the facts of the present case. The petitioner made a representation to the department for releasing

of the arrears of salary which was rejected vide letter dated 28.8.1993.

A perusal of the order passed by the Hon'ble Single Judge shows that it had partly allowed the writ petition but had granted no relief in regard to past allowances etc. which order does not suffer from any illegality or irregularity since the relief was granted within the discretion of the Court keeping in view the facts and circumstances of the case and the documents placed on the record. The said order, which was passed in discretionary manner since it was a writ petition, and the Hon'ble Single Judge had considered all the facts and circumstances of the case and therefore, the said order does not call for any interference by this Court and as such the same is accordingly affirmed. The Letter Patents Appeal stands dismissed accordingly.

**(V.K.Ahuja),J**

**April , 2007** **(Kuldip Singh),J.**

(SDS)